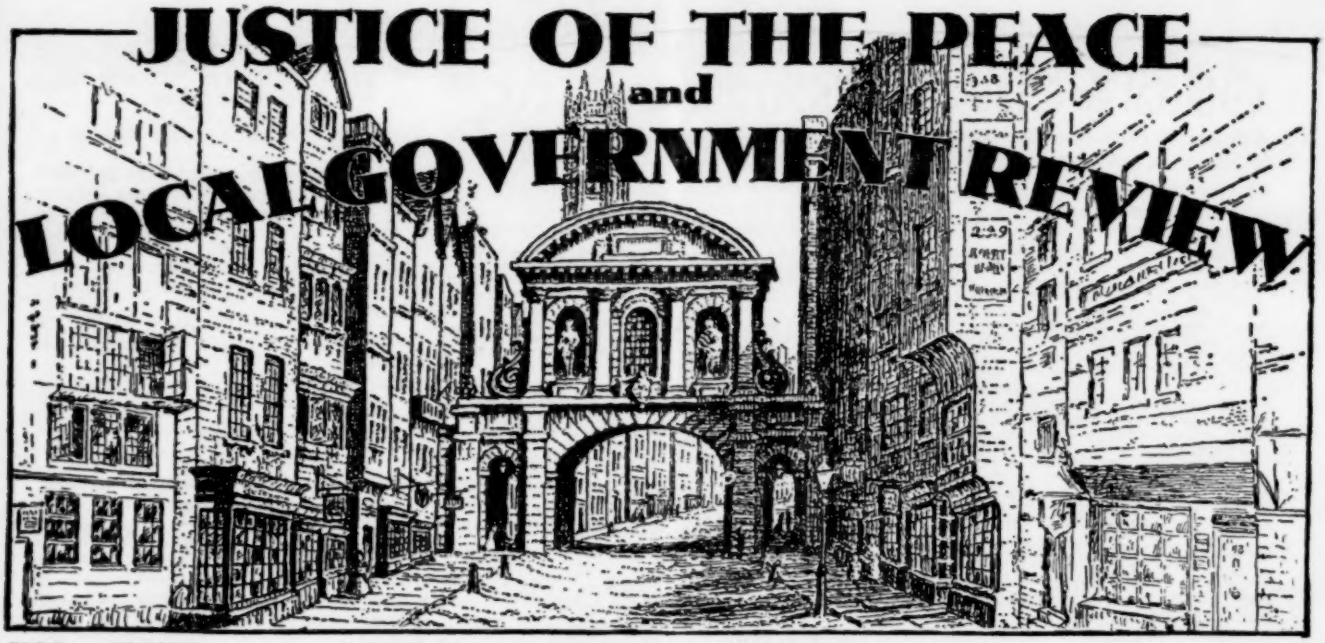

VOL. CXVIII LONDON: SATURDAY, OCTOBER 9, 1954 No. 41

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. 6d. per line and 3s. 6d. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note* : Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

APPOINTMENTS

THE LANCASHIRE (No. 2) COMBINED Probation Area Committee invite applications for the post of Whole-time FEMALE PROBATION OFFICER. Salary and appointment in accordance with the Probation Rules, 1949-54. The Officer will be centred at Chorley and serve the Leyland Hundred, Leyland and Walton-le-Dale Courts. Post superannuable. Medical examination. Further particulars and forms of application may be obtained from W. A. L. COOPER, Clerk of the Committee, Magistrates' Court, Lancaster Road, Preston, before October 23, 1954.
October 5, 1954.

FOR SALE

"MAGISTERIAL PENALTIES & POWERS." Guide to Penalties in Magistrates', Sessions and Assize Courts. ANOTHER LARGE IMPRESSION. 7/6. By post, 8*s*. From Cecil Geeson, City Magistrates' Court, Newcastle upon Tyne, 1.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant) Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

HOLLYWOOD MANOR HOME FOR BOYS

APPLICATIONS are invited for the positions of Assistant Warden and Assistant Matron of this Probation Home for Boys, ages 16-17-18. Assistant Warden salary £455 less £108 for emoluments. Assistant Matron salary £330 less £108 for emoluments. A joint appointment of man and wife able to undertake the two duties would be considered. Medical examination necessary. Applications stating age, qualifications and full particulars, enclosing copies of three recent testimonials, to Secretary, Hollywood Manor, West Kingsdown, Sevenoaks.

Amended Advertisement

CITY OF NORWICH

Appointment of Second Assistant in the Office of the Clerk to the Justices

APPLICATIONS are invited for the appointment of Second Assistant to the Justices' Clerk for the City of Norwich. Applicants should have a thorough knowledge of the work in a Justices' Clerk's Office. Salary Grade III (£550—£595) of the National Joint Council Scale. The Magistrates' Courts Committee will review the salary when National Scales for Justices' Clerk's Assistants have been negotiated or fixed. The appointment is superannuable and the successful candidate will be required to pass a medical examination. Applications, stating age and experience, together with copies of three recent testimonials, must reach me, the undersigned, not later than October 23, 1954.

H. A. SHARMAN,
Clerk to the Justices and Secretary to the Magistrates' Courts Committee.

Guildhall,
Norwich.

BOROUGH OF WALTHAMSTOW

Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor at a salary in accordance with Grade X of the National Scales of Salaries (£950—£1,080 per annum inclusive of London Weighting).

Applicants should have a wide and sound knowledge and experience of conveyancing and be prepared to undertake advocacy. The person appointed may also be required to undertake administrative work including attendance at Committees.

Applications, stating age, qualifications and experience, together with the names of three persons to whom reference may be made, and endorsed "Assistant Solicitor," should reach the undersigned on or before Monday, October 18, 1954. Canvassing will disqualify.

NOTE : As from January 1, 1955, the salary for this post will be in accordance with the amended Grade VII, *viz.* £1,010—£1,130 per annum inclusive of London Weighting.

G. A. BLAKELEY,
Town Clerk.

Town Hall,
Walthamstow, E.17.
October 6, 1954.

BOROUGH OF CROSBY
(Population 58,160)

Assistant Solicitor or Legal Assistant

APPLICATIONS are invited from Solicitors or Barristers (preferably with Local Government experience) for the above permanent appointment. Salary in accordance with A.P.T. Grade VII (£735—£810). Applications, on Forms obtainable from the undersigned, to be delivered not later than first post on Thursday, October 21, 1954.

HAROLD O. ROBERTS,
Town Clerk.

Town Hall,
Waterloo,
Liverpool 22.

BOROUGH OF HOVE

Senior Assistant Solicitor

SENIOR Assistant Solicitor required, salary Grade A.P.T. VIII (Grade A.P.T. V as from January 1, 1955). The successful candidate will be required to undertake advocacy, conveyancing, administrative and committee work. The appointment is superannuable and subject to a medical examination.

Applications, stating age, qualifications and experience, with the names and addresses of three referees, must reach the undersigned at the Town Hall, Hove, not later than October 25, 1954.

JOHN E. STEVENS,
Town Clerk.

BARROW-IN-FURNESS AND LANCASHIRE MAGISTRATES' COURTS COMMITTEES

APPLICATIONS are invited from young men for the post of Assistant in the Offices of the Clerk to the Justices for the County Borough of Barrow-in-Furness and the Petty Sessional Division of Lonsdale North.

Applicants must have had experience in the general duties of the work of a Justices' Clerk's Office. The salary will be in accordance with the General Division of the National Joint Council Scales and will be subject to review when National Scales for Justices' Clerk's Assistants have been settled.

The Post is superannuable and the successful candidate will be required to pass a medical examination.

Applications, stating age and experience, together with the names of two persons to whom reference may be made, should reach the undersigned not later than Monday, October 25, 1954.

JOSEPH WILLS,
Clerk of the Barrow Magistrates' Courts Committee.

Magistrates' Clerk's Office,
Market Street,
Barrow-in-Furness.

COUNTY BOROUGH OF BOURNEMOUTH

ASSISTANT SOLICITOR (Est.) required, salary within A.P.T. Grades Va—VII (£650—£810). Applications, with names of two referees, to reach me by October 23, 1954.

A. LINDSAY CLEGG,
Town Clerk.

Justice of the Peace
and
Local Government Review

[ESTABLISHED 1837.]

VOL. CXVIII. No. 41 LONDON : SATURDAY, OCTOBER 9, 1954

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NOTES of the WEEK

Police Warnings and Police Fines

Anything that will reduce the amount of time spent by police officers in connexion with attendance at court and which will therefore enable them to devote more time to their duties in connexion with both crime and the regulation of traffic is worth consideration. It is well known that in a large number of minor infringements of the law the police administer a warning, sometimes verbal, sometimes in writing. Not many people take exception to this so long as this method is applied with discrimination, as we believe it generally is. Obviously, any person who objects, either on the ground that he has done nothing wrong or on any other ground, will be summoned so that he may put the matter to the test.

From time to time the suggestion is made that the police should be empowered to go further, and to offer the offender the option of paying a small sum by way of fine or of being summoned. The fine would no doubt be fixed in respect of various trifling offences, and the police officer would give a formal receipt and would account for the fine in the ordinary way. Though doubtless many offenders would pay on the spot and be glad to avoid the receipt of a summons and the necessity for appearing or writing to the court, the proposal, whenever it is discussed, seems to find insufficient support to make it likely that it will become law.

Experience in Other Countries

In the *Police College Magazine*, Sergeant W. Stansfield, M.C., of the West Riding Constabulary, writes an informative article under the title " Fines on the spot," and discusses the pros and cons with knowledge of what has happened elsewhere. He begins by naming a number of countries which have operated time saving systems of various kinds and then proceeds to relate what has happened in Germany over a period of years. Following upon an order that trifling offences should not be prosecuted there was a considerable increase in the number of such offences. Warnings appeared to have little effect and advice and admonition were often disregarded. In a number of states in the 1930's a system of accompanying a warning with a tax of one Reichsmark met with some success. Recently the amount has been increased by 150 per cent. Offences had in fact increased, but the new and higher charge appears likely to reduce their number. It has undoubtedly lightened the burden of both courts and police. A written caution is issued only to an offender who has agreed to accept it and is willing to pay the fee. If it is refused, a report is submitted and further action is taken as may be thought necessary. The procedure may be that a court considers the documents on the file and imposes a fine which is notified to the defendant. If he pays it the matter is closed. He may of course refuse to pay and plead not guilty or only complain that the fine is too heavy ; only then will the allegation be heard in open court and the officer in the case have to appear.

Mr. Stansfield asks the important question, would such a system offend against the fundamental principle of British justice that offenders must be tried in courts of law, which alone are competent to decide their innocence or guilt? He thinks not, because only in the case of a man who admitted being guilty would the fine be imposed. In case of dispute the matter would always come into court. To the suggestion that warnings might in fact be given to frequent offenders whose records would be made known to a court which could impose a substantial fine, he replies that our present procedure seems to do little to reduce the number of offenders and that a warning on the spot coupled with a small fine might often be more effective than a nominal fine imposed at a much later date. Regular offenders would soon come to the notice of police who could then take appropriate action. One objection always put forward is the danger of bribery. Mr. Stansfield observes that there is nothing to prevent it now except the honesty of most people. For our part, we should add our opinion that there are very few police officers today who would dream of accepting a bribe.

The article concludes : " Certain it is that a substantial saving in police man-power could be made and this would enable forces to increase the protection afforded to life and property, one of the primary objects of the British police."

Goods Vehicles : Dimensions and Laden Weights ; and Overall Widths of Loads

The Ministry of Transport and Civil Aviation has issued a circular setting out proposals for increasing the maximum dimensions and loads of certain goods vehicles and for regulating the maximum overall width of their loads. It is stated that the Society of Motor Manufacturers, supported by the National Road Transport Federation, have pressed for some time for the legalization of the use in this country of vehicles with an overall width of eight feet because this is the width general in America and common on the continent. If this width were made legal here there would be no need to manufacture special vehicles for the export market.

The circular states that modern vehicles can be made larger and can carry heavier loads without any loss of structural safety, but the capacity of our roads to accept wider vehicles without loss of safety and convenience is limited. This latter statement will be endorsed by anyone who has tried to travel by road from the South to the Midlands or the North and has found that for miles he must travel behind heavy vehicles, whose statutory speed limit is 20 miles an hour, because such vehicles are constantly proceeding in both directions and their width, including that of their loads, is such that on many stretches of our big main roads there is no opportunity to overtake.

The circular goes on to state that the needs of the export manufacturers would be substantially met if the increase in width were confined to goods vehicles of four tons unladen weight upwards. The Minister has decided to authorize in part the requested increases in permitted widths of such vehicles and to introduce at the same time a limit for the overall width of vehicles and load. He has decided to increase also some of the permitted overall lengths and of maximum weights permitted to be transmitted to the road.

The circular sets out these proposals in detail, and as they occupy over one foolscap page of close typing they cannot be reproduced here. Amongst the proposals are an increase from 33 to 35 *ft.* for the maximum overall length of an articulated vehicle (reg. 6 (1) Construction and Use Regulations 1951); and from 27 *ft.* 6 *in.* to 30 *ft.* for four-wheeled vehicles other than public service vehicles (reg. 6 (3)).

A new regulation is proposed, to limit the maximum overall width of load and vehicle to 9 *ft.* 6 *in.* and the projection of a load from the side of a vehicle to 12 *in.*

This regulation is to be subject to exceptions in the case of *loose* agricultural produce such as hay, and of certain indivisible loads the movement of which has been previously notified to the police.

The circular states that the Committee on Road Safety, taking a broad view of the proposals as a whole, see no reason to object to them. It is proposed to make the changes, not by amending Regulations but by re-issuing the whole Regulations in consolidated form with the changes embodied.

The circular finishes by inviting comments on the proposals, to be furnished not later than October 31, 1954. It is dated September 14, 1954, communications about it are to be addressed to the Secretary at the Ministry, Berkeley Square House, London, W.1, quoting the reference RTV. 4/1/025.

Allowances to Members of Probation and Case Committees

The Secretary of State has made the Probation (allowances) Rules, 1954 (S.I. 1205), dated September 13 and coming into force on October 4. These Rules increase the rates of lodging allowances payable under sch. 2 to the Probation (Allowances) Rules, 1953, where expenditure is incurred on accommodation for the night other than sleeping accommodation in a railway train. The rate where the duties are performed in London is increased from 30*s.* to 37*s.* 6*d.*, and in other cases from 23*s.* to 30*s.*

Noise

Years ago it was quite common for motor cyclists to be summoned for using motor cycles with inefficient silencers. Today we never, or at least hardly ever, hear anything in the magistrates' courts on the subject of silencers, although the noise of motor cycles by day and by night has increased enormously.

This is one of the points touched upon by Mr. C. R. Hewitt, the well-known writer and broadcaster, in an article in the *Police College Magazine*, under the title "Relative Silence." He says truly enough that a silencer does not silence, it merely reduces noise. As he says, the purpose of the silencer is to reduce noise so far as may be reasonable, and he comments: "What was reasonable in 1903 was much more reasonable than what is considered reasonable now . . . thousands were prosecuted. By 1914 motor cycles had become inoffensive—when noise suddenly became synonymous with war-efficiency, speed, urgency and purpose. Today, increasing in numbers by 100,000 a year, they are noiser than the fanatics of 1903 could ever have hoped to make them." The requirement of a silencer, and offences in connexion with them, are dealt with in regulations 20 and 76 of the Motor Vehicles (Construction and Use) Regulations. To the question: Why are proceedings not taken against the numerous offenders, the answers are probably that the police, mostly below strength, cannot spare men for this purpose so as to reduce the numbers engaged in the prevention and detection of more serious offences, and that the public has become used to the noise and is prepared to tolerate it.

This is only one point in an article which is serious enough yet is light hearted enough to make delightful reading. The noise and damage that may result from aeroplanes travelling faster than sound, the nuisance of pneumatic drills and of noisy instruments or animals so troublesome but so hard to proceed against successfully, are touched upon, but the result seems to be that we shall just have to put up with them.

There are, of course, some sounds that must be described as noises but are none the less agreeable to many ears. There must be many people who, like Mr. Hewitt, would feel regret if they heard no more the "distant ships' sirens on the river at night, and other mens' lawn mowers on hot afternoons."

Institute of Shops Acts Administration

In 1937, at a meeting held in Tottenham, it was decided to form an organization for the advancement of the uniformity of administration and the status of those carrying out the duties under the Shops Acts. It was then known as the National Association of Shops Acts Inspectors, but the title was changed in 1949 to the Institute of Shops Acts Administration. Its objects are:

(*a*) To offer the legislature government departments and others, facilities for conferring with, and ascertaining the views of, inspectors under the Shops Acts, and to confer or co-operate with government departments, local authorities and others in regard to matters affecting the Shops Acts.

(*b*) To advance the knowledge of persons engaged in the administration of the Shops Acts, and to attain unity in the execution of those duties.

(*c*) To promote the interchange of ideas amongst inspectors under the Shops Acts, and to diffuse information upon any matters affecting their duties in such ways as may be thought desirable.

(*d*) To provide facilities, common to sectional or professional organizations respecting the administration of the Shops Acts.

Since 1950 the Institute has been holding examinations and granting diplomas. This move has received increasing

support and recognition. Concurrent examinations were held this year at London, Leeds and Glasgow.

The annual conference this year was held at Southport from September 21 to 23. Papers were read by Mr. John Thompson, Q.C., on "An examination of the Home Office proposals for amending shops legislation" by Mr. L. C. Porter, chief inspector, county borough of Bootle, on "The new Shops Act: Fewer exemptions—better enforcements," by Mr. E. J. Cope-Brown, town clerk to the borough of Ealing and hon. solicitor to the institute on "A review of certain decisions given by the reference committee concerning legal and administrative problems," and by Mr. F. M. Bucknall, chief inspector for the county borough of Grimsby on "The technique of inspection."

Property in House Refuse

We have several times been asked to advise upon problems arising, when something is put unintentionally into a dustbin which should not go there, or when something which has been properly and intentionally put into the dustbin is taken out without authority. In the latest of these cases, there was an allegation of the stealing of metal which had been put out by the householder for collection. Although no claim of right was, it seems, set up by the person who took it, there was a difficulty felt by the prosecution, about the person whose property the metal should be alleged to be. The chief sanitary inspector of the council, who, we gather, were the prosecutors, claimed that the property had passed to them as soon as the metal was put into the bin with a view to its being collected by their scavengers. For the defence it seems to have been argued that the metal was abandoned, and was nobody's property, at least until collected. If the bin had been put in the street with a view to its there being emptied by the scavenger, there would have been a summary offence under s. 76 (3) of the Public Health Act, 1936, a subsection designed to prevent the practice of sorting over bins while they are waiting for the scavenger's cart. This section is, however, not available while the bin is still upon the premises of the householder. Another case in which we have been asked to advise was where a number of pound notes were found upon a council's refuse tip. The council's servants were able to collect them (or many of them), and we were asked to advise what steps should be taken to inform the true owner or, in the alternative, whether the council could set up a claim of ownership themselves. It is tolerably clear in a case of this sort that the householder, who has put into his dustbin a bundle of pound notes, or a gold watch, or a diamond ring (and we have come across such cases) did not intend to abandon the property, and we do not think the council can set up a claim against him. In the more ordinary case, where the householder does intend to abandon his property for good, as where scrap metal, bones, and such things are put into the bin, we think that the property remains with him until the bin is emptied by the council's servant. Thus, in 1950 we had occasion to advise that, where a householder had put bones into his dustbin, it was open to him to pull them out again, if he was visited by a dog to whom he wished to show hospitality. By parity of reasoning, he could give authority to a neighbour to take the bones, kitchen scraps, and so forth, out of the dustbin and give them to the neighbour's chickens. The council could not claim that the householder himself, or the neighbour, was guilty of any offence in such a case. To sum up, the position seems to us to be that the property in house refuse remains with the householder until the moment of collection, and passes to the council when the refuse is collected, provided always that the object in question was put into the bin with knowledge and intention.

Restrictive Practices Amongst Builders

The report of the Monopolies and Restrictive Practices Commission on the supply of buildings in the greater London area which includes neighbouring counties, is of general interest to local authorities. Section 266 of the Local Government Act, 1933, requires that all contracts entered into by a local authority shall be made in accordance with the standing orders of that authority. The model standing orders issued by the Ministry contain provisions relating to such matters as the public advertisement of contracts, the form in which tenders shall be submitted and the procedure to be adopted before a tender other than the lowest is accepted. Most local authorities base their standing orders upon the model, although they are not compelled to do so, and the approval of the Minister is not required. From information received by the Commission from 96 local authorities out of a total of 101 in the area, it was found that 12 placed contracts only after public advertisement, whilst a further 32 normally used this method, but used other methods for certain contracts. In 23 cases the authorities employ their own labour force on building work, usually but not invariably, in competition with outside contractors.

The report refers in detail with the formation and development of the London Builders Conference which came into being in 1935 "specifically to deal with the problem of excessive competition." Before the war it operated a joint fair price and tendering scheme which involved the sharing out of the proceeds of successful tenders among the unsuccessful tenderers. This scheme was applied almost invariably to all competitions reported by its members. During and for some time after the war the Conference ceased operations. In 1947, when it resumed activity, it was at first concerned only with tendering expenses. In January, 1949, it re-introduced also the fair price part of its arrangements, but on the understanding that the application of the scheme would be limited to "cases in which there was clear evidence of uneconomic pricing." The Commission, following a debate in the House of Commons, was asked by the Board of Trade to investigate and report on whether conditions to which the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948, applies in fact prevail in connexion with the activities of the Conference and whether anything done by the Conference operates or may be expected to operate against the public interest. After a very careful investigation and hearing evidence from various quarters, the Commission reached the conclusion that the effects of the Conference arrangements as a whole on the public interest had been harmful, and had no such beneficial effect as to justify either practice, and that both practices were against the public interest. The Commission recommended, therefore, that agreements or arrangements of the following kinds should be brought to an end:

(*a*) Any agreement or arrangement to communicate the amount of any proposed tender for the construction of a building costing more than £1,000 to a person other than the person calling for tenders;

(*b*) Any agreement or arrangement between a proposed tenderer and any person, other than the person calling for tenders, to adjust the amount of any proposed tender. The Commission made no recommendation as to the method by which these agreements or arrangements should be brought to an end because in their view it can be determined only after discussion with the various parties concerned—the representative bodies of builders, architects, surveyors and local authorities as well as the London Builders Conference—and that it is for the appropriate Government department to undertake these discussions.

STEALING OR RECEIVING ?

THE COURT AND ALTERNATIVE CHARGES

By J. P. EDDY, Q.C.

Where the police charge a person with larceny it is almost common form for them to add an alternative charge of receiving. Indeed, if the evidence is consistent with larceny and also with receiving there can be no doubt that the proper course is to prefer both charges.

But the court which tries the case must distinguish clearly between the two. The accused can be convicted of stealing, if at all, only if the court is satisfied he is the thief. He can be convicted of receiving, on the other hand, only if the court is satisfied that he feloniously received the property in question from some other person. A man cannot receive from himself.

The case of *R.* v. *Seymour*, (1954) 118 J.P. 311, lends emphasis to these simple, though none the less important, propositions. In that case the prisoner had been charged at Reading borough quarter sessions with receiving a gun knowing it to have been stolen. There was no charge against him of larceny. The gun was stolen from a hut on an allotment, and a few days afterwards it was in the possession of the prisoner. In addressing the jury, counsel said on behalf of the prisoner : " You may come to the conclusion that he was the thief, and, if he was, you cannot find him guilty on this indictment which charges him only with receiving."

The jury convicted the prisoner, that is to say, of receiving. On appeal to the Court of Criminal Appeal, Lord Goddard, C.J., delivering the judgment of the court, said that in his opinion the right charge and verdict would have been one of larceny. The court could not alter the verdict from receiving to larceny because there was no charge of larceny in the indictment. Accordingly the appeal was allowed.

POSSESSION AS PROOF

Cases referred to by Lord Goddard were *R.* v. *Loughlin* [1951] 35 Cr. App. Rep. 69, *R.* v. *Christ*, (1951) 115 J.P. 410 and [1951] 2 All E.R. 254, and *R.* v. *Melvin* ; *R.* v. *Eden*, (1953) 1 Q.B. 481.

In Loughlin's case the prisoner was charged at East Kent quarter sessions with breaking and entering a pavilion of the Ashford Golf Club and stealing a bottle of whisky and a bottle of cherry brandy ; and there was a further charge against him of receiving the property. At about 5 o'clock in the morning—within an hour or two of the property having been stolen from the golf club—he was stopped in Ashford by a police officer, and both the bottles were found in his attaché-case. He told a story of having bought the bottles, with two others, for £5 outside a public-house which he thought was Lewisham way, from a man whom he had never seen before, could not describe, and whose name he did not know. The deputy-chairman at quarter sessions directed the jury not to consider the first charge of pavilion-breaking and larceny, and to concentrate on the second charge, that of receiving. The jury did so, and the prisoner was convicted on the second charge. He applied to the Court of Criminal Appeal for leave to appeal against conviction.

In delivering the judgment of the Court (refusing the application) Lord Goddard, C.J., said it was too often the case, where a man was charged with housebreaking, and the evidence against him was that soon after the breaking and entering he was in possession of the property, that the court directed the jury that there was no evidence that he broke and entered, and told the jury to concentrate on the receiving.

" That is not the law," said his lordship. " If it is proved that premises have been broken into, and that certain property had been stolen from those premises, and that very shortly afterwards a man is found in possession of that property, that is certainly evidence from which the jury can infer that he is the housebreaker or shopbreaker, and, if he is, it is inconsistent to find him guilty of receiving, because a man cannot receive from himself. That is what is so often done. It is perfectly good evidence of the prisoner being the housebreaker that he is found in possession of property stolen from a house quite soon after the breaking."

LARCENY OR NOTHING

In the case of *R.* v. *Christ*, *supra*, two men were convicted jointly at Hertfordshire quarter sessions on alternative counts for larceny and receiving. The jury acquitted both men of larceny, and on the count for receiving they disagreed with regard to one of them and convicted the other (the prisoner Christ). The Court of Criminal Appeal quashed this conviction, and, in delivering the judgment of the court, Devlin, J., pointed out that in many cases when a man was found in possession of property, or had been seen to be associated with property, it was uncertain whether the evidence for the prosecution would ultimately satisfy the jury that he was guilty of stealing it or of receiving it. Therefore the indictment charged both counts, though they must necessarily be alternative counts. But once it became apparent that it was a case of larceny or nothing, the judge in his summing up should put simply to the jury the count of larceny and remove from their consideration the alternative count for receiving.

In receiving cases it is of course of fundamental importance that it shall be established that the goods in question were stolen. But it is not necessary that there shall be direct evidence on this point. As was laid down by the Court of Criminal Appeal in *R.* v. *Sbarra*, (1918) 82 J.P. 171 and 13 Cr. App. R. 188, the circumstances in which a defendant receives goods may of themselves prove that the goods were stolen, and further may prove that he knew it at the time when he received them. In that case the appellant was convicted of receiving tobacco and cigarettes. The goods were despatched from the prosecutor's place of business in Clerkenwell Road, London, for Fulham and Hammersmith. They were afterwards found in the appellant's shop, which was opposite the prosecutor's place of business. There was no evidence that the goods were not delivered to the consignees, and it was argued that they might have got there and been sold and so come honestly into the hands of the so-called thieves. There was evidence that the people from whom the appellant received the goods were dealing with them in the middle of the night, and deposited them on the appellant's premises by a side door, through which they were admitted by the appellant himself. The Court of Criminal Appeal came to the conclusion that the circumstances were enough to prove that the goods had been stolen.

R. v. FUSCHILLO

Again in the oft-cited case of *R.* v. *Fuschillo* [1940] 2 All E.R. 489—a decision of the Court of Criminal Appeal in which the Sbarra case was referred to—there was no actual proof of the ownership of the goods in question, nor that they had been stolen.

The appellant was convicted of receiving sugar well knowing it to have been stolen. He managed a very small shop for his mother in Bermondsey. He had been granted an allowance of 1¾ cwt. of sugar per week by the food executive officer. When the police visited the premises they found 26 cwt. of sugar. On seeing the police the appellant said he had been a fool. He was cautioned and was told that there was reason to believe that the sugar was stolen. He replied : " I don't know why I took it in. I'm a fool. This means going away." Asked if he would care to tell where it came from, he said : " Be satisfied and take it away, but don't take me." The Court of Criminal Appeal came to the conclusion that the conviction was amply justified by the evidence.

The law laid down in Sbarra's case and Fuschillo's case was again applied by the Court of Criminal Appeal in the unreported case of *R.* v. *Mills*, decided on November 11, 1946, which was referred to in *Cohen and another* v. *March*—a decision of a Divisional Court of the King's Bench Division—(1951) 2 T.L.R. 402. The defendant Mills was found dealing with valuable property, offering it at very much under its true value. When challenged he said " All I can tell you is that it is not the proceeds of a job in London." The jury could infer from that, said Lord Goddard, C.J., giving judgment in *Cohen and another* v. *March*, *supra*, that what he meant was that those goods were the proceeds of a job in the country and not in London. That was evidence from which they could infer that the goods were stolen.

On the other hand, the case of *Cohen and another* v. *March*, *supra*, is an authority for the proposition that where the only evidence against a person charged with receiving stolen goods is that he told an untruth as to when goods came into his possession it is not evidence that they were stolen.

HIS HONOUR

By PAUL T. W. BUTTERS

The County Court Judge occupies a unique position in the legal hierarchy. As a practising barrister, he has invariably enjoyed not only considerable success in the courts but the privilege of enjoying it in the genial company of his fellows. Like all lawyers (who are almost as bad as doctors in this respect) he has talked shop over an underdone steak, and has explained in unnecessary detail to his junior colleagues in the bar mess how he managed to obtain an acquittal in that awkward little manslaughter in spite of a noticeably unfriendly summing-up. But once he is elevated to the County Court Bench all that is changed, and he becomes essentially a lonely man. The circuit in which he operates is a limited one and he usually works alone. Assize Judges generally hunt in pairs, but while they can (if they are on speaking terms) wax learned together over their after-dinner port in their lodgings, and congratulate each other on the noticeable wisdom of their judgments, their brother in the less pretentious county court usually lunches alone ; and his opportunities of explaining to his colleagues how efficiently he decided that awkward problem under the Rent Restrictions Acts are few. Indeed, the only real opportunity he gets is when he is required, through the machination of a disappointed litigant (aided and abetted by his solicitor), to explain his reasons in tiresome detail to the Court of Appeal.

Apart from the Court of Appeal, the only person His Honour is likely to have much opportunity of confiding in is his lady wife, but she can never quite take the place of the appreciative junior counsel who were always so ready to listen to the details of his forensic triumphs with the awe and reverence due to a senior and successful member of their profession. In some respects, this is not altogether a good thing. Divorced from the immediate influence of his legal contemporaries, secure in the splendid isolation of the Bench, the County Court Judge tends to become too much of an individual and to develop certain personal idiosyncrasies. This was more marked in the bad old days of not so very long ago, when County Court Judges were not, perhaps, chosen with the jealous care that is shown today ; and the Judge who was a " character " in his own right (or wrong) was more frequently met with than he is today. While invariably a sound lawyer, he was not the easiest of men to deal with. The justice he meted out, while always fair and nearly always sound in law, was apt to be of the " summary " variety, and he was too obviously impatient at the leisurely pace at which some cases were conducted before him. If the truth must be told (and even lawyers must tell it sometimes), the type of Judge who felt that he could conduct both the plaintiff's and the defendant's cases more efficiently and expeditiously than their respective solicitors, was not unknown. His favourite phrase was : " Call your evidence," and he invariably used it before the unhappy solicitor representing the plaintiff (or, it may be, the defendant) had got any further in his opening address than a polite intimation that he was representing the plaintiff (or, it may be, the defendant). But that was only the beginning of the solicitor's martyrdom. His Honour (no doubt inspired by the highest motives) would then proceed to examine, cross-examine and re-examine, the parties and their witnesses with no more than a cursory reference from time to time to their respective solicitors. The only satisfaction the plaintiff's solicitor had was the fact that his pal on the other side was having just as rough a passage as he was himself—and that was cold enough comfort. After all, the solicitors were being paid for their services (however inadequately) and were, no doubt, anxious to make some sort of pretence that they were earning their fees. Yet even a closing address was often denied them.

Happily, the large majority of County Court Judges nowadays not only know their law but administer it with the dignity and courtesy expected of the holder of so high an office. But, though in a small minority, the Judge whom advocates are tempted to describe as testy and disagreeable, is still with us—and he is not confined to the county court. Whatever the season of the year or the temperature of the court (and its occupants) he invariably insists on the windows being opened if they are closed, and closed if they are open ; if, in a running-down action you fail to produce photographs of the *locus in quo*, he is openly critical of the slipshod way in which you have prepared what little case you have ; if, on the other hand, you *do* produce them, His Honour (or, going up a peg, His Lordship) is quick to point out how misleading a photograph can be and how much more sensible it would have been if a plan had been used instead. If you put in a plan alone, it is either too big or too small, but never quite the right size to satisfy the boss ; if, on the other hand, in an excess of zeal, you produce both photographs *and* plans, you are criticized for putting your client to unnecessary expense. In the hands of such a Judge as this (and there are still a few—a very few—of them left) the solicitor's lot, like that of the operatic policeman, is not a happy one.

The county court is one of the few arenas outside the magistrates' court where the solicitor is given the opportunity of doing battle with the barrister on his own ground. It is true

that in some county courts the Judge is apt to take the view that the solicitor would be well advised, in the interests of his client, to confine his activities to judgment summonses (which make few demands on the intellect but rather more on the patience) or undefended money claims before the registrar; but it must be conceded that these courts are few in number, and generally the solicitor gets a fair crack of the whip and meets his more glamorous colleague on more or less equal terms.

Even to the uninitiated, it is easy enough to determine which of the contestants is the solicitor and which the barrister. The solicitor is the better advocate more often than you might expect, but the barrister is invariably better dressed. While the conventions demand that the solicitor wears a gown (which becomes progressively more battered with the age and experience of its wearer), and legal neckbands (which are not always as white and smooth as they might be), these necessary accoutrements of the well-dressed lawyer cannot hope to compete with the impressive-looking wig which counsel drapes across his legal dome. A bald solicitor remains a bald solicitor for all to see; a bald counsel may, for all his public knows, have a mop of hair which compares favourably with that of one of the Marx Brothers. But that is by no means the end of the story of this unequal battle. Counsel is usually attended by a retinue of prompters and baggage men (among whom is often to be found an unobtrusive solicitor who has done all the preliminary work) and an impressive library of bulky, legal tomes, the moral effect of which carries him halfway to victory without the necessity of opening a single one of them. The humble solicitor usually fights his battles alone, without any assistance from the prompt corner, and it is considered ostentatious in him if he carries more than a *County Court Practice* and possibly a very ordinary-looking book on the Rent Acts. Apart from the further fact that counsel is invariably referred to as "my learned friend," while the solicitor (who is apparently considered to be more or less illiterate) never achieves the status of anything more impressive than "my friend," there is one other point which distinguishes these respective limbs of the law—whatever be their numbers in the list, the barrister's case is always taken first.

Of the many qualities demanded of a County Court Judge today, the greatest is undoubtedly patience—infinite patience, not only with the barristers, solicitors and litigants who appear before him (and goodness knows they are a mixed bag) but with his own court list which can be a very dull affair indeed. It invariably starts with a string of judgment summonses, and the hearing of a judgment summons is about the dullest, most uninteresting, soul-destroying business known to man. The solicitors and others not directly engaged in them can take the opportunity of having a quiet nap but His Honour, while he could undoubtedly deal with most of them in his sleep, has to simulate some sort of interest. Happily for his sanity, the hearing of a judgment summons is mercifully short. Three minutes is generally regarded as an unduly generous amount of time to devote to one summons; but even so, twenty of them can occupy an hour which could be more profitably spent weeding the garden. The only other person likely to look even more depressed than the Judge himself is the judgment creditor who realizes that the amount of the order he has obtained means that his debtor will have been dead for a number of years before he has finished paying, always assuming that he makes his payments regularly (which, of course, he never does).

With such an unimpressive start as this to the day's business, there is little wonder that the average county court lacks that air of tension, that expectation of a dramatic interlude that one finds, for instance, in the Assize Court. There is little box-office appeal in a dispute over a party hedge or the niceties of a right of way; the Rent Restrictions Acts, which occupy a large proportion of the court's time, while full of interesting ambiguities for the lawyer (as any self respecting Act of Parliament always is) has not the same dramatic appeal to the layman as, say, a nice, juicy murder or manslaughter might have.

So a stranger seeking excitement in the county court is in for a very disappointing day (if he stays that long, which is unlikely). If he is disposed to be unduly critical, he might go so far as to express surprise that its officials are not actually carrying out their duties from cold, marble slabs. He might attempt to drive home his point by suggesting that if he seeks to inquire the position of his case in the list (if any), he will have to pick his way carefully over the recumbent bodies of various court officials who are either asleep or dead, on his way to the registrar whom, as like as not, he will find slumped over his desk like the body found in the squire's study. Indeed, he might even go so far as to assert that the whole thing is a waste of valuable time.

And, of course, he would be just about as wrong as it is possible to be. Let us admit that the county court is rarely exciting and often dull. But let us hasten to add that much sound law is made there, and though some of it is overruled by the Court of Appeal, the bulk of it is not. Litigants who seek their remedy in the county court will always find it if the merits are on their side. And the man who sits quietly through it all is as sound in his judgment and as worthy of our respect as his brother who occupies the more exalted position in the High Court. He sees that justice is done and that alone surely makes him deserving of his title—"His Honour."

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SHOULD OLD PEOPLE BE REGISTERED?

[CONTRIBUTED]

There seems to be a growing demand for the registration by local authorities of all old people. The suggestion is that the Registrar-General or the Ministry of National Insurance should supply local authorities with the names and addresses of all persons over 65 years of age and each authority would then compile a register. With such information, it is thought, the welfare officers of the local authority could keep a check on the old people resident in the area, and prevent the tragedies which, all too frequently, occur to old people living on their own, and which are revealed by a row of untouched milk bottles. No doubt the old folks on the register would be notified of the help which they could obtain from various sources. They would be invited to attend local Darby and Joan clubs, and generally persuaded to use such facilities as are available to help them with the problems of old age.

In so many cases the only one to whom an old person has an opportunity of telling his difficulties, troubles, hopes and problems is the officer of the National Assistance Board on his occasional visit of inquiry, but pride or ignorance deprives many of even this visit. Gradually as the physical condition of these lonely old people deteriorates, their homes, which perhaps were their pride, get dirtier, until, unless their plight is noticed and brought to the attention of the authority, there is a final pathetic end.

Would the register solve this problem of the recluse in need of assistance? In the first place, on registration, the visitor from the local authority would call and ascertain what help, if any, is needed. He may, or may not, be welcome. For at 65 years of age most people are still mentally and physically active and well able to take care of themselves. Many of them would resent any suggestion that they are in need of help or any form of supervision. When deterioration once starts it is usually rapid and therefore it would be necessary to keep a constant watch on the old people, which would amount to supervision. The visitors going round to ascertain if and what help is needed, would have to be highly trained, for they would have to be unobtrusive yet firm with their inquiries. They would have to know the various kinds of assistance available and where they could be obtained. In some cases, no doubt, they would have to arrange for the required help to be provided, or even take emergency action themselves. An extensive knowledge of human nature and current welfare legislation would be required by the visitor. Such knowledge is not acquired easily.

The register would have to be kept up-to-date. There is a constant movement of old people from one area to another, and a system would have to be devised of transferring registrations from one authority to another. Would the number of highly trained visitors required—and it must be remembered that many of them would spend most of their time visiting people who did not require help anyway—and the administrative work involved, solve the problem or even be justified? It is exceedingly doubtful if it would, for what is required is not the registration of old people, but information about those who are in need of help. There is a great deal of difference between the two. What local authorities want is not a register of all elderly persons in their area, but to ensure that all people in need of the various health and welfare services which are provided, are aware of those services and where necessary, use them. Information about old people in need of help comes at present, from many sources; neighbours, medical practitioners and police, to name only a few, and it is in accordance with this information that a visitor is sent. It may be that the information discloses that a nurse or a home help is required, and although a supervisor may call to ascertain the extent of the nursing or cleaning required, a general visitor is not needed. Although the present procedure is not perfect, it is nevertheless working reasonably well, bearing in mind the necessity of having a system which does not infringe the rights and privacy of individuals. County and county borough councils, in carrying out their health and welfare functions, already have lists of old people who are using the services provided. There would appear to be little need for a complete register of all old people, whether healthy, wealthy or not.

R.O.

MISCELLANEOUS INFORMATION

WALSALL FACTS AND FIGURES, 1953/54

This is the title of the booklet produced by the borough treasurer, Mr. D. H. Charlesworth, M.B.E., F.I.M.T.A., A.S.A.A., in which he gives an excellent summary of the town's finances for the year. He has earned the gratitude of the members of the borough council for the job he has done: the booklet (as so many are not) is the right size to be carried comfortably in the pocket or handbag, and both the manner of presentation and the contents of the publication make it extraordinarily useful to busy members, the greater part of the booklet being taken up by facts and figures about each of the services administered, arranged in alphabetical order.

Walsall is not a very large town nor is it a fast growing one, the population of 114,900 having increased by 1,500 persons during the last four years. Rateable value per head is £5 8*s.* 11*d.* (21,600 out of 31,700 dwelling houses and flats have a rateable value of £11 or below) and consequently a substantial exchequer equalization grant amounting to £312,000, equal to a 10*s.* 6*d.* rate, is received. With this assistance, and economical administration, rates are not excessive. The poundage of 20*s.* 4*d.* levied in 1953/54 amounted on a house of £10 rateable value to 3*s.* 11*d.* weekly—not by any means a back-breaking burden.

Housing is naturally a matter of prime interest in this industrial town and Mr. Charlesworth has given full information in the appropriate section of his booklet. His facts and figures show that the town council have provided over 12,000 houses, that total housing capital expenditure has reached £10,031,000, and that the housing revenue account realized a surplus for the year of £1,700. Repairs fund contributions are £10 per house and the repairs fund at March 31, 1954, amounted to £77,000, equal to £6 per house. The great majority of houses are of the three-bedroom type and average rents of those built post war are 15*s.* 3*d.*: the corresponding figure for those erected between 1919 and 1939 is 9*s.* 11*d.*

After the changes of 1948/49 transport was the only substantial trading undertaking left under local control. The 1953/54 financial results were eminently satisfactory as a surplus of £26,800 was realized and the reserve fund stood at £62,000 at the year end. As is common, the trolley vehicle side of the undertaking was more profitable than the buses.

Income received from road fund licences and paid to the national exchequer amounted to £154,000: contributions from government departments towards highway costs in the town totalled £2,100.

Net outstanding loan debt at the end of the year was £11,300,000 three-quarters of which was incurred in respect of housing. Average rate of interest paid was 3·19 *per cent.*

THE SALFORD HUNDRED COURT OF RECORD

The Chancellor of the Duchy of Lancaster (Lord Woolton) has made an order (1954 S.I. 1140) which came into force on September 1, extending the jurisdiction of the Salford Hundred Court of Record to include personal actions where the sum claimed does not exceed

£200, the limit having previously been £100. As the jurisdiction in possession cases was increased in 1951 to include premises where the annual rent or value does not exceed £100 (instead of £50 as previously), the effect of the recent order is to make the jurisdiction identical with that of the county courts, which should prove beneficial to practitioners.

KENT CHILDREN'S COMMITTEE REPORT

The wisdom of the policy of boarding-out children in care of a local authority, and the success achieved when the right kind of foster parent can be found, are brought out strongly in the report of the Kent children's committee for the period 1950–53. Particular attention has been given to the boarding-out of very young children and the policy of boarding-out short stay cases has been followed consistently. Cases are quoted which illustrate something of the quality of the service which is given by foster-parents; "their work goes on in an inconspicuous way, they gain nothing financially but it is hoped that they all get much happiness from the children whom they have accepted into their homes."

What becomes of the foster-child is an important question, to which this report supplies a most satisfactory answer. "A child who is happily established in a foster-home and for whom suitable employment can be found in the neighbourhood will probably present no more difficulties when he first becomes a wage earner than any child living with his own family; he will remain in his foster-home assuming some responsibility for his own maintenance and with his wages supplemented by the committee until he is self-supporting. Boys who are so placed generally stay in their foster homes until their call-up and while they are in the services have this home to look on as their own and to return to for leave periods; girls frequently remain with their foster-parents until they marry." As the report points out, the position of a child leaving a children's home is very different. He may have to make two changes at once, from school to employment and from a children's home to private lodgings. It is pointed out that a child who has been kept in a children's home is often a child who has some personal difficulties which precluded his being placed with foster-parents and so the two changes at once may prove too much for him. This is unavoidable because not every child can be boarded-out, but happy is the lot of the child who can be placed with the right foster-parents.

The committee has never lost sight of the importance of parental responsibility. This is not only a matter of contribution towards maintenance of children in care. It is pointed out that payment towards the children's maintenance by all the parents who are in a position to contribute ensures a regular contact between the parents and the authority and ensures also that the parents are not allowed to forget their responsibilities. When a family crises arises, says the report, the reception of the children by the committee is a comparatively easy solution which is satisfactory for the moment and sometimes this action may be of permanent help in that the parents, relieved for the time being of the burden of caring for their children under difficult circumstances, are able to rehabilitate themselves and literally to "put their house in order." The danger is, however, that instead of reception into care being recognized as a temporary measure it may lead to the break-up of a home and family. The object of the committee is to keep homes together and to restore children to their homes whenever this is possible. While children are in care, welfare officers and staff of children's homes do all they can to maintain the interest of the parents in their children, especially by visits of parents to children and *vice versa*. When several children of a family are in care a gradual return is sometimes made so that the parents accept their responsibilities without too much strain at any one time. Parents of children who have been removed from them under court orders are encouraged to apply to the courts for revocation of the order when they have proved themselves capable of caring adequately for their families.

In the homes themselves, experiments by staff are encouraged, it being recognized that individuality and specialization are called for in dealing with children of different ages and varying needs. An approach to normal family life is admittedly ideal.

We are impressed by the following passages in the report: "As has been mentioned, the committee recently decided on a policy of introducing children of three to five years into children's homes. The main reason for this change of policy is that young children seem to benefit from the stimulus of the presence of older ones. Other advantages are that a young child in a children's home is generally of great interest to all the others and adds to the happiness of the community, and with this plan it is easier to place brothers and sisters together in one home since only the 'under-threes' would be admitted to nurseries . . . A suggestion which came originally from the Home Office was that small homes should be built on housing estates where the children and staff could readily be absorbed into the life of the local community; the committee consequently decided to establish a certain number of 'family homes' of this type . . . the houses are built to blend with their surroundings so that it is unlikely that a visitor to the district would distinguish them, and the word 'institutional' can certainly never be used of their appearance."

The fact that a certain number of parents are evading their responsibilities and the problem of deciding how much to do for the children in the circumstances are illustrated in the following paragraph: "The children's committee is caring at present for 158 children whose ages range from under one year to fourteen years who have at least one parent who could look after them. Sixty-three of these children have been separated from their parents for over one year and some of them for as long as 2½ years. The families concerned are, it is true, feckless and have most of them been evicted for the non-payment of their rent; the consequences which at present result are the loss by the children of parental care, the relief of the parents of many of their natural responsibilities and the imposition on the county council of a considerable burden; the question as to whether this is for the best or not is one for the nation as a whole."

We have found this report of great interest as showing a progressive and enlightened policy on the part of the children's committee. The future promises even better things, for the committee has its plans and is looking well ahead. "During the first five years they have endeavoured to provide the best physical accommodation available for each child against ever increasing pressure of numbers. But now that the peak in numbers may have been reached, it is hoped that the next five years may be a period of consolidation and development, and that a more selective classification of the homes may be possible."

WASTEFUL PURCHASE OF BUILDINGS FOR HOSPITALS

Amongst matters mentioned in the third report from the committee on public accounts is the failure of the Ministry of Health to use some properties which had been acquired for hospital purposes. In their previous report, doubt was expressed at the adequacy of the general arrangements made by the Minister for examining accommodation requirements and the use made of property acquired for the hospital service. In the past it has not apparently been the practice of the Ministry to follow up systematically the action taken by regional hospital boards after properties had been acquired. Many properties acquired between 1950 and 1952 had not yet been brought into use principally because of the inability of the boards concerned to undertake immediately, with the limited capital resources available, the necessary work of adaptation. The Treasury recently reviewed these arrangements. At the time of the inquiries by the committee of public accounts, 14 such properties had been held for two years and steps were being taken to dispose of five of them. Three unused hotels which had been acquired for use as nurses' homes were found subsequently to be unnecessary or unsuitable for the purpose. The Ministry explained to the committee that in the early days of the Health Service the policy had been to encourage developments which looked reasonable and to avoid too much central control. But the Ministry did not consider that they could excuse or defend the actions of the boards in these instances and thought they should have been discovered earlier. In consequence, the Ministry were satisfied that stricter central control of the use of properties for hospital purposes was absolutely essential. The committee agreed that as long as restrictions on capital investment or on the total sums available for the Health Service continued, waste of money on the purchase of unnecessary or unsuitable premises for the hospital service must reduce the amount that can be spent on services for the benefit to the patients; and that it is therefore the clear duty of the Ministry to do whatever they can to stop such waste. In view of the fact that five properties after remaining unused for two years or more are to be disposed of, the committee express the hope that the Ministry will make careful inquiries to see that a property is really needed before they authorize a board to buy it. Further, the committee hope that individual hospital authorities will give their full co-operation so as to serve the best interests of the hospital service as a whole.

MAJOR ACCIDENTS

The Ministry of Health has issued memoranda to hospital authorities and local health authorities as to the action which should be taken to deal with major civil accidents resulting in a large number of casualties. Arrangements have been made for certain hospitals in all areas to be ready to send mobile teams to the scene of the accident and it will be the function of the ambulance service to call upon the most appropriate of these hospitals whenever the magnitude of an accident appears to render such medical assistance necessary. A senior officer of the ambulance service should be at the scene of the accident as soon as possible in order, *inter alia*, to discuss the disposal of casualties with the hospital medical officer on the spot. Experience gained in dealing with recent accidents involving many casualties indicates that there is a need for co-ordination of such activities and it is considered that this can best be provided by the dispatch of a mobile team from the appropriate hospital. So as to avoid duplication at any particular accident,

it is emphasized that both the ambulance authorities and the hospitals concerned should know which hospital is to send a team. During the planning of these arrangements hospital authorities and local health authorities are advised to get into touch with the British Red Cross Society, the St. John's Ambulance Brigade and the W.V.S., whose assistance could be most valuable. The resources of these bodies for welfare work might be particularly useful, and the British Red Cross Society are understood to be willing to provide a welfare liaison officer. The first two organizations might be particularly valuable for first aid services and additional auxiliary nursing services, and they have indicated that a senior officer will be available at the scene of the accident. It is clearly necessary for a good understanding to exist between hospitals and local health authorities and the Minister has asked regional hospital boards to get in touch with local health authorities with a view to working out suitable arrangements. In order that the ambulance officer in charge may secure immediate and effective control of the ambulance resources available it may be desirable for him to use police communications through the police control at the scene of the accident. Plans have been prepared between police forces and railway authorities for contending with large-scale accidents and it is suggested that the local health authority may wish to confer with local police and fire authorities as well as with hospital authorities in order to dovetail in advance their plans for meeting this type of emergency.

Experience has shown that heavy demands are likely to arise for stretchers and blankets. When casualties are being admitted to hospitals in large numbers it is not always possible to recover immediately the stretchers and blankets with which they arrive. Again at the scene of the disaster, stretchers and blankets may be required by patients awaiting an ambulance when the service is too hard pressed to remove them all as soon as they are rescued. Authorities are accordingly advised to maintain a small reserve stock readily available for immediate delivery at the scene. A particularly grave accident may exceed the resources of the authority in whose area it occurs and authorities should accordingly be prepared to send rapid aid in such circumstances to places outside their own area. Local health authorities should discuss with neighbouring authorities what arrangements should be made to ensure the smooth and rapid operation of such aid.

ROAD ACCIDENTS—JULY AND AUGUST

Road casualties in August—the peak month for road traffic—totalled 23,784. This is the highest monthly total so far recorded this year, and 1,681 more than in August last year. The number of people killed was 414, a decrease of 43, compared with August, 1953, but the seriously injured increased by 267 to 5,675 and the slightly injured by 1,457 to 17,695. These figures are provisional.

Final figures for July give a total for all casualties of 23,447. This was 687 more than in July, 1953, and included 426 deaths, a decrease of four.

Casualties to child pedestrians numbered 2,487, including 48 killed; and casualties to child pedal cyclists, 1,351, of which 11 were fatal. Compared with the figures for July last year the number of children killed shows a decrease of 12. There was, however, little change in the total number of child casualties.

PROVISION FOR OLD AGE

We referred at p. 546, *ante*, to the evidence given to the Phillips Committee by the County Councils Association and the National Old People's Welfare Committee. We have now seen the memorandum which was submitted to the committee by the Association of Municipal Corporations which contains some similar suggestions and here also the emphasis is on the need to encourage and help old people to live as long as possible in health and comfort in their own homes. On housing it is suggested that emphasis should be placed on the provision of bed-sitting rooms in either flats or terraced bungalows, with the addition of certain communal facilities; and that with such communal accommodation it may be necessary to provide a small amount of supervision over the old people and someone to help them in the simple tasks of shopping, cooking and laundry. As a means of arresting the onset of premature old age by those who have ceased to be in full-time employment it is suggested that occupation schemes providing work on a part-time basis, either at home or in connexion with old people's clubs, could beneficially be provided by local authorities or voluntary organizations and that experiments in so rehabilitating old people might be extended.

Some of the suggestions made by the association would involve further legislation such as in the provision of a properly co-ordinated domiciliary welfare service operated by the local authority. It is thought that such a service, although entailing expenditure of money and manpower, would probably prove to be more economical than the widespread provision of residential accommodation. But it is pointed out that the service would need properly organized social visiting by skilled workers employed by local authorities, "as only trained persons are able to deal adequately with old people's needs and personal problems on an individual basis." With this need in mind, it is considered important that provision for the needs of old people should form part of the training of health visitors and other welfare workers. In referring to other services it is mentioned that voluntary organizations providing recreation and meals for old people receive grants from local authorities but that there is room for a considerable expansion of these services; and that there should therefore be a re-examination of local authorities' powers to provide the really essential domiciliary services required.

The provision of larger residential homes is raised and it is suggested that the erection of homes accommodating up to fifty persons would be more economical to run than the smaller homes which have been generally provided and would still provide most of the characteristics of comfortable accommodation without being institutional.

As to the chronic sick old people, attention is again drawn to the difficulty of getting into hospital many who need hospital treatment and the association suggests that the difficulties arising from the present separation of functions between the hospital bodies and local authorities could most satisfactorily be solved by the restoration to local authorities of the hospital services. It is argued that the transition from "frail ambulant" to "chronic sick person" is so gradual as in many cases to be almost imperceptible until it is complete. It is considered, therefore, that it would be most advantageous for responsibility for the provision of accommodation for the chronic sick to be imposed upon local authorities. Again, following similar views expressed in many quarters, the need is pressed for a single officer with overall responsibility to decide which type of care of a chronic sick or infirm person is required. In view of the differences of opinion which have sometimes arisen as to the responsibility for those who do not require expensive hospital care but who require some measure of nursing which is not available in the ordinary old people's home it is very satisfactory to learn from the memorandum that the association agrees that this responsibility should be placed on local authorities but that the grant payable towards the maintenance of these cases should be increased because each one maintained in a local authority home would be saving a bed in hospital for a more acute case.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 81.

A CONVICTION UNDER THE SERVANTS' CHARACTERS ACT, 1792

On September 21 last, a 52 year old Brighton woman pleaded guilty at Hove magistrates' court to two charges under s. 4 of the Servants' Characters Act, 1792. The first charge alleged that the defendant, in July last, having been in the service of a company as a servant and having received from the company a certificate of her character, unlawfully altered in the said certificate a certain date and offered herself as a servant to a named individual with such altered certificate of character.

The second charge alleged that on the same day she offered herself as a servant to the same named man with a false certificate of character, and the particulars of the charge averred that having been employed by a named woman and received from her a certificate of character, she produced to her prospective employer a certificate of character of a different nature.

For the police, it was stated that defendant had an irreproachable character. Defendant explained that at her age it was very difficult to get a job, and she signed one reference and altered the date on the other in " sheer desperation."

Defendant was fined £1 on each charge.

COMMENT

It is seldom in these days that one reads of prosecutions under this Act, which has now been on the statute book for over 160 years, but there can be little doubt that there would be many more prosecutions brought but for the pace at which life to-day has to be lived, which makes it impracticable to verify references with the care that they should receive. Time and again it is discovered when offenders are brought to book for gross offences committed when occupying positions of trust, that a little care taken before employment was given, would have disclosed the entire unsuitability of the person concerned to be put in a position of trust.

Section 4 of the Act enacts that a person offering himself as a servant who falsely pretends that he has served in some particular service or who offers himself with a false, forged or counterfeited certificate of character, or who alters anything contained in a certificate given by a former master, shall be guilty of an offence and by s. 6 of the Act it is provided that on conviction an offender shall be fined £20.

It will be recalled that by s. 27 of the Magistrates' Courts Act, 1952, this amount may now be mitigated at the discretion of the court.

(The writer is indebted to Mr. A. E. Thompson, clerk to the Hove justices, for information in regard to this case.) R.L.H.

No. 82.

THE ICE CREAM WAS DEFICIENT IN FAT

The Eastbourne justices on September 13 last dealt with a case in which a local café proprietor was charged with selling ice-cream which was not of the prescribed standard, being deficient in fat to the extent of 11 *per cent.*, contrary to the Food Standards (Ice Cream) Order, 1953, art. 1 of the Food Standards (General Provisions) Order, 1944, and the Defence (Sale of Food) Regulations, 1943.

For the prosecution, it was stated that a local sanitary inspector went into defendant's shop and bought three 6*d.* dishes of ice cream. He disclosed his identity to the defendant and divided the ice cream into samples, one of which was sent to the public analyst. The analyst found that the ice cream contained 4·45 *per cent.* of fat as against the five *per cent.* prescribed by law—a fat deficiency of 11 *per cent.* For the Eastbourne corporation, the prosecutor, it was stated that in view of the popularity of ice cream it was felt that it was very important that it should be kept up to standard.

For the defendant, who pleaded guilty, it was said that it was the first prosecution of its kind. Before 1951 there was no legally prescribed standard and the proportion of fat in the sample before the court was, in fact, well above the standard set in 1952 which had since been increased. The deficiency had been occasioned by the defendant recently starting to use a new kind of ice cream powder which might not have been properly mixed.

A fine of £20 was imposed on defendant, who was stated in July last to have been sentenced to twelve months' imprisonment on six charges of making false statements with intent to defraud the revenue and to have been fined £100 on each charge.

COMMENT

Article 3 of the Food Standards (Ice Cream) Order, 1953, which came into force on June 1 of last year, provides that the standard for ice cream is to be as specified in the schedule to the order. The schedule states that ice cream shall contain not less than five *per cent.* fat. 10 *per cent.* sugar and 7½ *per cent.* milk solids other than fat, and that references in the schedule to any proportion or percentage mean that proportion or percentage by weight.

The power to prescribe a standard for regulating the composition of ice cream is derived from reg. 2 of the Defence (Sale of Food) Regulations, 1943.

(The writer is indebted to Mr. H. Odell, clerk to the Eastbourne justices, for information in regard to this case.) R.L.H.

No. 83.

SNUFF CAUSES TROUBLE

A former employee at the Royal Ordnance Factory at Glascoed pleaded guilty when charged at Pontypool magistrates' court recently with an offence under s. 97 of the Explosives Act, 1875, as amended by the Explosives Act, 1923. The particulars of the charge alleged that the defendant, on a day in July, when employed in the Danger and Explosives Areas at the factory, inserted a metal snuff box into an explosives container, which act tended to cause an explosion or fire.

For the prosecution it was stated that snuff was prohibited in the whole of the area. The essential element of danger was the snuff, not the tin. Snuff was liable to cause deterioration of explosives with the risk of an explosion on some future occasion. A police inspector stated that when interviewed defendant said " Yes, I panicked and I must take the consequences. I realise the seriousness of the offence and trust they will be lenient with me."

For the defendant who pleaded guilty it was stated that he had been a fourth-grade examiner at the factory for 13 years, that he was aged 65 and had now been dismissed from the factory. The defence stressed that it would be necessary for the snuff itself to come into actual contact with explosives to cause risk, and there was no evidence of this. It was the tin with the snuff in it which had been placed in a partly-filled container.

Defendant was fined £5.

COMMENT

The writer doubts whether " snuff takers " are generally aware of the perils which may be caused by snuff coming into contact with explosives, but it is improbable that many people who work in ordnance factories are addicted to the taking of snuff.

Section 97 of the Act of 1875 is a curious section, for the major part of the section is devoted to excluding from the provisions of the Act Government factories in which explosives are manufactured. By a proviso to the section, however, it is enacted that any person found committing any act tending to cause explosion or fire in a Government factory devoted to the manufacture of explosives, shall be liable to the like penalty as if the section had not been enacted and the Act applied to such factories.

(The writer is indebted to Mr. E. I. P. Bowen, clerk to the Pontypool justices, for information in regard to this case.) R.L.H.

PENALTIES

Hove—September, 1954. Failing, when a bus conductor, to take all reasonable precautions to ensure the safety of a passenger entering a bus. Fined £4, to pay £1 16*s.* 5*d.* costs. A woman was about to enter the bus when the doors shut, she fell and the wheel of the bus went over her right hand, fracturing one finger and dislocating others.

East Grinstead—September, 1954. Leaving a car without the hand-brake set. Fined £10, to pay £1 18*s.* costs. Defendant, a woman, left her car and entered a shop. She came out and found it moving down the hill. It travelled 300 yards, knocked down two people, caused three others to fall into the gutter, fractured a limb of a five year old boy and hit a stationary bus.

Darlington—September, 1954. (1) Careless driving, (2) Failing to give a boy precedence on a zebra crossing. Fined a total of £7. Defendant, an 18 year old girl, had passed her driving test earlier the same day.

Fort William Sheriff Court—September, 1954. (1) Stealing two ewes and two lambs (2) Cruelty to one ewe and one lamb (1) Fined £20. (2) Fined £15. Defendant, a small holder, who admitted stealing the animals, subsequently killed a ewe and a lamb by striking them on the head with a hammer. He attempted to destroy evidence of ownership by sawing off their horns with a hacksaw and cutting off part of their ears with a knife.

Eastbourne—September, 1954. Failing to close a shop at 9.30 *p.m.* Fined £5, to pay £4 4*s.* 0*d.* costs. Defendant's shop was open at 9.40 *p.m.* with two or three assistants selling sweets.

Pontypool—September, 1954. Indecently assaulting a 14 year old girl. Fined £10. Defendant, a pensioner aged 74.

Dover—September, 1954. Conduct calculated to cause breach of the peace—Justice of the Peace Act, 1361. Man peering through holes in lavatory door at users of urinal. Bound over in £10, for six months and ordered to pay costs of £3 6*s*. 6*d*.

Chester-le-Street—September, 1954. (1) Procuring a dangerous drug (2) Failing to keep a register of dangerous drugs. (1) Fined £10. (2) Fined £10. Defendant, a 36 year old doctor had become addicted to pethedine. Addiction was accounted for by severe war wounds which caused intense pain. Hospital authorities were now succeeding in eradicating the addiction.

REVIEWS

Marriage Failures and the Children. By Claud Mullins. London: The Epworth Press, 25-35 City Road, E.C.1. Price 5s. net.

Mr. Mullins always writes a good book, and this is well up to standard. He is deeply concerned that there should be so many divorces with resultant harm to the children, and he is quite convinced that the children do suffer when parents are divorced or separated, in spite of any arrangements that may be made about them. It follows that he would like to see fewer divorces and maintenance orders, and he is not content merely to lament the present state of affairs. He has his constructive suggestions for remedying the situation.

Many of the marriage failures that appear in the courts are, in his opinion, social rather than legal problems, which could better be solved with the aid of social workers and agencies than by the courts. With 15 years' experience as a metropolitan stipendiary magistrate behind him, Mr. Mullins can testify to what can be accomplished by probation officers in the work of reconciliation, especially if this is undertaken at the earliest possible moment. He found much ignorance among parties to matrimonial proceedings as to the probable results of orders and the uncertainty of enforcement, and few seemed to realize the difficulty of maintaining a divided family. His plea is for a clearer recognition of the social problems and for fewer cases to be brought into the divorce court. He points out how large a sum is spent on free or assisted divorce proceedings and how little on the support of marriage guidance councils, and, without criticizing the solicitors concerned (he acknowledges the help they are sometimes able to give in bringing parties together) suggests that there is less likelihood of saving a marriage once legal aid has been granted for divorce proceedings.

Marriage councils should, he considers, be assisted so that they can extend their work, since they can get at the root cause of much of the misunderstanding and misery that lead to marriage failure. Preparation for marriage, frank discussion before and after marriage about difficulties, maybe about sexual relations, maybe about birth control or even about housekeeping and money matters, can prevent couples from making a muddle of their relationship and eventually drifting apart. Mr. Mullins knows what he is writing about, because he has been chairman of a marriage guidance council and taken a keen interest in the movement.

The views expressed in this small book are put forward with moderation and with due regard for those people who may differ on religious or other conscientious grounds. This makes them the more acceptable, and for our part we believe he is right.

The fact that a marriage is not turning out happily is no sufficient reason for quick resort to the courts, and this is particularly true where there are children. A sense of duty and responsibility ought to impel the parties to strive to compose their differences in the interests of their children. Only too often in these days of the welfare state that sense of duty is lacking. Mr. Mullins realizes this.

"I am always grateful for the fact that I was born in Victorian times. In those days it was easier to do one's duty than it is now, for to do one's duty was the conventional goal which all were taught to aim at and it applied in marriage as in other spheres of life. This was before the age when Rights became emphasized and Duties apt to be forgotten.

. . . . . .

The coming of the Welfare State has had a considerable influence on marriage and parenthood. This is a subject that needs examination, but I am only concerned with it here in so far as it has caused a deterioration in the relationships between parents and their children. This I believe it has done. Parents have in effect been encouraged to leave some of their vital parental duties to others."

PERSONALIA

APPOINTMENTS

Mr. Norman Joseph Heaney, LL.B., deputy town clerk of Bognor Regis, Sussex, for more than three years, has been appointed town clerk of Lewes, Sussex, in succession to Mr. J. Whitehead. Mr. Heaney was admitted in January, 1951.

Mr. Eric David Lyndon Davies has been appointed deputy town clerk of Wembley, Middlesex. Mr. Davies, who was admitted in October, 1948, is at present assistant solicitor to Islington borough council.

Mr. Charles Noel Sidney Nicholson, LL.B., has been appointed deputy town clerk with Darlington county borough council. He commences his new duties on November 1. Mr. Nicholson, who was admitted in October, 1947, is at present assistant solicitor in the town clerk's department of Bristol city and county borough council. He was previously junior, then senior, assistant solicitor to Tynemouth county borough council. Mr. Nicholson succeeds at Darlington Mr. Lawrence Joseph Hartley, who has been appointed deputy town clerk of West Hartlepool. Mr. Hartley was admitted in October, 1948.

Mr. Harold Bedford, L.A.M.P.T.I., assistant solicitor to Barnsley county borough council, has been appointed assistant solicitor to Margate borough council and will take up his duties on October 11. Mr. Bedford has been legal assistant in the town clerk's department at Barnsley since April, 1938. He was previously with a firm of solicitors at Barnsley. Mr. Bedford succeeds in his new post Mr. V. H. Mellor, D.P.A., who served the borough councils of Camberwell, Battersea and Chelsea, before coming to Margate at the end of September, 1952, and serving from then until September 28, this year.

Mr. David A. Lewis, at present serving as probation officer for the county borough of Merthyr Tydfil, has been appointed an additional probation officer for the Essex combined area.

Miss M. P. D. Pile has been appointed to the post of female probation officer for Durham county combined probation area. Miss Pile is at present relief probation officer at Merthyr Tydfil, Glam. In 1932, she was accepted for the Home Office training course at Bedford College and was trained in case work by the Family Welfare Association at Highbury, London. Miss Pile spent four months as trainee in Bradford probation office and did further practical training in the London courts, both adult and juvenile.

MR. R. S. McDOUGALL

Mr. R. S. McDougall, county treasurer of the Hertfordshire county council, has, at the request of the Colonial Office and with the approval of the county council, gone to advise the Government of Nyasaland on the terms of amalgamation between the towns of Blantyre and Limbe. He will be away for four months.

RETIREMENTS

His Honour Judge F. K. Archer, Q.C., is retiring in November, at the age of 72. Judge Archer is county court judge for Brighton and other important centres in Sussex. He was called to the Bar in 1912, and became one of the youngest King's Counsel the country has known, when in 1923 at the age of 40, he took silk. Judge Archer was appointed a county court judge in 1937.

Mr. Sydney Malden, deputy town clerk for Barnes, has retired after 45 years' service.

Mr. George H. Fleming, registrar at Southwark since 1939, is to retire. He will be succeeded by Mr. C. R. Fifer.

Mr. Oliver Fray Ormrod is retiring from the Whitehaven, West Cumberland, firm of solicitors, Brockbank, Helder and Ormrod. The practice is being carried on under the same name, and Mr. G. A. L. Helder is taking into partnership a Carlisle solicitor, Mr. Richard Frank Wright, retiring by arrangement from the firm of Clutterbuck, Trevennan and Mawson of Carlisle. A second new partner is Mr. Francis Gerald Lamble who has been associated with the Whitehaven firm for the past two and a half years. Details of Mr. Ormrod's retirement as clerk to the Whitehaven justices were given at 118 J.P.N. 347.

OBITUARY

Mr. Richard E. George, who has died at the age of 78, after a three weeks' illness, was formerly clerk to the Newtown, Mont., urban district council for 25 years.

Mr. William Bufton, a former superintendent in the old Radnorshire police force, has died. He received regular promotion after joining the force in January, 1895, eventually becoming superintendent and deputy chief constable in 1919, retiring in 1925.

AN ESSAY IN REALISM

Experts in mediaeval art tell us that the charming *naïveté* of so much of the painting, stained glass and sculpture of the Middle Ages arose from the craftman's desire to tell, graphically, a story which the poor, illiterate folk of those times were unable to read for themselves. Thoughts and emotions could be expressed by the attitudes and gestures of the personages portrayed, and that is why the figures in the Romanesque and Gothic cathedrals seem to our eyes to exhibit such stylized, perhaps exaggerated, postures. It is these peculiarities that are gently made fun of by Lewis Carroll in the character of the White King's Messenger, who " kept wriggling like an eel as he came along, with his great hands spread out like fans on either side." " He's an Anglo-Saxon Messenger," explained the King, " and those are Anglo-Saxon attitudes." (*Through the Looking-Glass*, chap. VII.)

W. S. Gilbert's satire, in *Patience*, on the eccentricities of Burne-Jones and the rest of the so-called " Pre-Raphaelite " School is sharper :

> " I am *not* fond of uttering platitudes
> In stained-glass attitudes,"

chants the aesthetic Bunthorne, when he finds himself " alone and unobserved." And there is this justification for Gilbert's mockery—that the picturesque *naïveté* of mediaeval art, which had a very real purpose in the graphic representation of passion by attitude and gesture, degenerated into mere affectation and hyperbole in the hands of mid-Victorian artists.

Critics will differ on matters of taste, but it is perhaps not too far-fetched to relate the eccentricities of some modern artists to the near-illiteracy among the masses today. The film, the comic strip, the illustrated paper and television have become, for millions of people, a substitute for reading ; and the popularity of these media, among children and adults alike, is a measure of the decline in the cultivation of their critical and analytical faculties. It is less trouble to skim through the pictorial press, to visit the cinema, to sit with eyes glued to the television-screen, than to scan the contents of a well-written newspaper or book and form one's own conclusions on its views. Horace has remarked that what is placed before the eyes makes a sharper impression on the mind than what is apprehended by the other senses, and his observation is certainly as true today. Picasso, Matisse and Chagalle, strange and *outré* as their art appears to orthodox taste, are perhaps doing no more than harking back, by devious routes, to mediaeval times.

Support is lent to this theory by a *Times* dispatch from Sydney, New South Wales. A Baptist minister, preaching in the pulpit on the subject of the Garden of Eden, startled his congregation by opening a bag beneath his desk and producing a five-foot snake, which he allowed to coil itself round his arms and neck, to illustrate " the sin that was subtle and attractive." Assuring the worshippers that the reptile was of a harmless variety, he invited them to handle it ; we are not told how many of them accepted the offer. An innovation of this kind has at least the merit of impressing the details of the story on the onlookers' minds ; whether it will elevate their ethical ideas must be a matter of opinion.

If this sort of thing becomes general, the Consistory Courts will, one imagines, be busier than they have been since the probate and divorce jurisdiction was withdrawn from them in 1857. Startling vistas open themselves before us. Learned Chancellors will be asked to dispense faculties for all kinds of *impedimenta* required by the preacher to illustrate his texts. The installation of a complete hydraulic system may be demanded to provide a lifelike representation of the Flood; the destruction of Sodom and Gomorrah will call for much ingenuity in the art of pyrotechnics. Jacob can easily watch the angels climbing a real ladder in full sight of the congregation, and the finding of a baby Moses in synthetic bulrushes should involve no difficulty. But who is to defray the cost of damage to the structure arising from a too faithful illustration of Samson pulling down the Philistine temple ? Sufficient youthful volunteers—rejoicing in an opportunity for the lawful use of their catapults—would no doubt be forthcoming for the part of David in his duel with Goliath, but the *rôle* of the giant is likely to be less eagerly sought after ; and the same applies to the active and passive characters in the episode of Cain and Abel.

Already his Grace the Archbishop of York has made a pronouncement which, at first reading, appears to support these innovations. Apologising for arriving late at the National Conference of Parish Councillors at Westminster, he explained that his train had been delayed, and concluded that a necessity for an Archbishop in these days was the possession of a helicopter. The analogy with the ascent of Elijah in a chariot of fire, though unspoken, must have been subconsciously suggested to his mind.

Once these vivid methods of delineation have established themselves in ecclesiastical circles, it should not be long before they are adopted in the courts. In a recent case involving the fraudulent exchange of the favourite with an outsider at a race-meeting, the suggestion was canvassed, in certain organs of the press, that the two horses should be produced before the Judge and jury for the purpose of visual evidence, though it was recognized that difficulties might have been involved in the examination and cross-examination of these two witnesses. Having regard to the prevalence of motoring offences, the time may not be far distant when every magistrates' court will be equipped with a speed-track, where the driver's conduct can be vividly demonstrated. " Smash-and-grab " raids can be quite easily staged in court at the expense of a plate-glass window or two, and cases of assault will permit of reconstruction with an exceptionally hard-headed constable in the *rôle* of the victim. The duties of the advocate will be limited to mere argument ; the time of magistrates, judges and juries will be economized, and the public and press will enjoy themselves more thoroughly than ever.

A.L.P.

NOTICES

The next court of quarter sessions for the borough of Guildford, Surrey, will be held today, October 9, 1954, at the Guildhall, Guildford, at 11.0 *a.m.*

The next court of quarter sessions for the borough of Southend-on-Sea, Essex, will be held on Monday, November 15, 1954.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Criminal Law—*Corrective training—Previous convictions.*

A man, over twenty-one years of age, who is pending a charge of breaking at a court of quarter sessions, has the following recorded against him :

(*a*) He was put on probation for two years at an assize court for breaking.

(*b*) He was fined at a magistrates' court for larceny.

(*c*) For a breach of the probation order (*a*) he was brought back to that court and dealt with for the original offence and was again put on probation for two years.

Is he eligible for a sentence of corrective training? SATURN.

Answer.

In our opinion he is not liable to a sentence of corrective training, because although he failed to comply with some requirement in the probation order, and was dealt with in respect of that failure, he was not sentenced for the original offence and did not bring himself within the proviso to s. 12 (1) of the Act.

2.—Highways—*Obstruction—Shop blind.*

There are a number of shops in a town in this county which have blinds so constructed that had the Town Police Clauses Act, 1847, been applicable, the owners could be summoned under s. 28 for not having them at least eight feet in height in every part from the ground.

In the absence of any local byelaw to prohibit this, I am wondering whether any action could be taken under s. 72 of the Highways Act, 1835. I realize there is no wilful obstruction of the footway at ground level but in some cases the blinds at some parts are not more than approximately 5ft. 9ins. to 6ft. in height and, if process was instituted, it would be a matter for the bench to decide what constituted "wilful obstruction."

The road in question is a trunk road and a very busy one at this time of the year with only sufficient room for two lines of traffic. I am wondering what the position would be if a pedestrian stepped off the pavement to avoid hitting his head against a sunblind and was then injured by a passing motor vehicle. Could the shopkeeper be held liable for damages?

I should appreciate your learned opinion on the question of proceedings under s. 72. S.T.P.

Answer.

The offence against s. 72 would be that of wilfully obstructing the passage of a footway. We think it not unreasonable to hold that passage on the footway may be obstructed by projections or obstacles above ground level. A sun blind at 5ft. 9ins. or 6 ft. may interrupt passage of the footway by a tall man, and we think it may be worth while to put the point to the test of a prosecution.

3.—Larceny—*Refuse collector—Taking scrap metal from dustbins.*

A is charged under s. 17 of the Larceny Act, 1916, with larceny of scrap metal, the property of his masters, the local council. A is employed as a refuse collector and the evidence discloses that he took the metal from dustbins wherein it had been deposited by householders, presumably for collection.

For the defence it is contended :

(*a*) That the property had been abandoned ;

(*b*) If not abandoned, it still remained the property of the householders and the title had not, at that stage, passed to the local council ;

(*c*) That it is doubtful whether the title ever passes to the council, and that if a householder deposited an article in his dustbin and for some reason decided, after it had been collected, that he wanted it back, he would be entitled to reclaim it, providing, of course, that it had not been destroyed at the destructor works.

In cross-examination the chief sanitary inspector claimed that articles deposited in dustbins become the property of his council immediately they are so deposited, although he admitted that the council reserves the right to refuse to collect certain types of refuse, *e.g.*, garden refuse, broken bricks, etc.

I have considered the case of *Digby* v. *Heelan & ors.* (1952) 116 J.P.N. 312, but there the question for the court's consideration was whether or not there was *animus furandi*. That might, of course, be a further defence in the case with which I am concerned, although there is displayed at A's place of employment a notice, which, in my view, would dispose of any defence that he acted under a *bona fide* claim of right.

Your valued opinion would be much appreciated. TEUTON.

Answer.

In the case cited the Divisional Court declined to lay down the proposition that there could not be a theft from an owner of property which was of no value to him and of which he did not intend to make any further use. Until such a proposition is laid down we are disposed to think that there can be larceny in the circumstances stated. We think the chief sanitary inspector's contention goes too far, and that the the property remains with the householder until collection : *see* P.P. 2 at 114 J.P. 560. In the case before us we consider that the metal is the property of the householder, until it is taken from the dustbin on behalf of the council, when it becomes their property.

4.—Local Government Superannuation Acts, 1937 and 1953—*Service with officer followed by war service.*

A was an articled pupil under an agreement with the engineer and surveyor of B local authority and during this period of pupilage, which was for a period of three years, he was engaged wholly in the performance of duties relating to the functions of the authority assigned to him by the engineer and surveyor. The local authority were not a party to the articles of agreement and A was not at any time paid by B local authority, but it was with their approval that the articles were given.

Immediately upon the termination of the three year period of articles A served for a period of five years in the armed forces during World War II.

Upon release from the forces A obtained a permanent appointment with C local authority, then becoming a contributory employee for superannuation purposes ; and subsequently transferred to his present appointment with D local authority.

At no time has any determination under s. 12 (6) of the Local Government Superannuation Act, 1937, been made in favour of A by any of the three authorities referred to.

A has now applied to D local authority to make a determination in pursuance of s. 7 (3) of the Local Government Superannuation Act, 1953, that the whole of the periods of (*a*) his articles and (*b*) war service shall be reckonable as non-contributory service.

1. Can a three year period of articled pupilage with an officer of a local authority, where the pupil's duties allocated to him were wholly or mainly in the performance of duties relating to the functions of a local authority, properly be reckoned as "in the employment of an officer" as recited in s. 7 (3) (*a*) of the 1953 Act?

2. If the answer to (1) is "yes" is D local authority empowered to reckon the succeeding period of war service as non-contributory? and if the answer to (1) is "no" please give the answer in that case on the war service period. ARTEMIS.

Answer.

1. Yes in our opinion. It is of the essence of articles that the subordinate is not merely a pupil but also an employee.

2. We think so.

5.—Magistrates—*Jurisdiction and powers—Consecutive sentences—Several indictable offences tried summarily—Fine and imprisonment.*

A is charged with six offences of larceny. Assuming that in each case the maximum penalty is imposed, *i.e.*, £100 fine and six months' imprisonment, and default is made in payment of the fines (no time having been allowed for payment), what, in your opinion, is the maximum imprisonment which may be imposed upon the defendant, having regard to the wording of s. 108 (2) and (4) of the Magistrates' Courts Act, 1952? SCIVIC.

Answer.

Five of the periods of six months' imprisonment can each be consecutive to the first one, but they must run concurrently with each other. The maximum alternative for the fine is three months' imprisonment, and for each offence that period can be ordered to be served consecutively to the period of six months *imposed in respect of that offence.* The result is that the maximum period of imprisonment, if none of the fines are paid, is 15 months, because the first three months run concurrently with the consecutive periods of six months, and the other five run consecutively, in each case, to the relative period of six months and concurrently, therefore, with each other.

6.—Magistrates—*Practice and procedure—Information dismissed for want of form—Issue of a recent summons—Autrefois acquit.*

A summons was issued at a recent court which the defending solicitors submitted was bad *ab initio* as it did not disclose (*a*) the exact details of the insufficiencies in the coupling between the motor-car and its trailer, (*b*) the exact details of the registration number of the vehicle. The police applied for leave to amend but the bench decided on my advice that the summons was bad *ab initio* and could therefore not be amended. The summons was accordingly dismissed. The facts of

the case were not gone into. At the time I apprehended that it would be reissued with particulars of what the deficiencies consisted.

I have since noticed the case of *Halsted* v. *Clark* [1944] 1 All E.R. 270; 108 J.P. 70, referred to in *Stone*, 1954 edn., p. 112. However, a case exactly on all fours seems to be *R.* v. *Ridgway* (1822) quoted at the top of p. 249 *Stone*, 1954.

The police are anxious to issue a fresh summons. Will you please inform me through the medium of your paper whether the defence of *autrefois acquit* will be successful. JEOLEX.

Answer.

We have read the two cases referred to, but we think that *Ralph* v. *Hurrell* (1875) 40 J.P. 119 is perhaps more in point. We think that the objection at the first hearing was to the form of the information and this could have been dealt with by amendment and, if necessary, adjournment to avoid prejudice to the defendant. There was no hearing on the merits, and we do not think that *autrefois acquit* can successfully be pleaded on the hearing of the second summons.

7.—Police—*Borough Police—Neglect of duty—Statutory offence as alternative to proceedings under the Police (Discipline) Regulations*, 1952.

Your opinion on the following question would be appreciated:

So far as a borough or city force is concerned, s. 191 (4) of the Municipal Corporations Act, 1882, states: "The watch committee, or any two justices having jurisdiction in the borough, may at any time suspend, and the watch committee may at any time dismiss, any borough constable whom they think negligent in the discharge of his duty, or otherwise unfit for same." Section 194 of the Act states: "If a borough constable is guilty of neglect of duty or of disobedience to a lawful order, he shall for every such offence be liable on summary conviction to imprisonment for any time not exceeding ten days, or in the discretion of the court, to a fine not exceeding 40*s*., or to be dismissed from his office." This implies that in a borough or city force a justice of the peace could play a definite part in the administration of discipline within that force.

There does not appear to be any relationship between this statute and police regulations, although opinion on this matter is divided in this force.

I can find nothing in the police regulations giving power to appoint a constable, power to do so being confined to the Municipal Corporations Act, 1882, and it would appear that the police regulations and the Act are separate and can be acted upon independently.

It is, of course, appreciated that where a constable is convicted by a criminal court it is a matter which can be decided upon under reg. 17 of the Police Discipline Code, but only in so far as it relates to whether or not he will continue to be employed in the force. No further monetary punishment can be inflicted.

However, I find it hard to believe that the powers provided by the statute are unrelated to police regulations and I would appreciate your opinion on this matter. SAPHO.

Answer.

In our opinion s. 194, *supra*, and the 1952 Regulations exist side by side and in any appropriate case the offence can be dealt with either under the statute or under the regulations, but not under both. Regulation 2 (1) provides that when a report or allegation is made that a police officer may have committed "an offence" (one offence is that of "disobedience to orders"), the matter *shall* be referred to an investigating officer as defined in that regulation, *except in cases in which the chief constable decides that no disciplinary proceedings under these regulations need be taken*. We assume that the exception would apply, *inter alia*, if it were decided to proceed under s. 194, and the regulations would not then be invoked at all. The court under s. 194 can imprison, *or* fine, *or* dismiss the constable from his office.

8.—Road Traffic Acts—*Unauthorized traffic signs—Failure to observe as evidence of careless or dangerous driving.*

In my county after an interval of three or four years, during which several persons have been fined for disobeying "Keep Left" and "Overtaking Prohibited" signs, the authorities have discovered these signs have not been officially authorized. The police have been instructed to cease prosecuting under them, and instead bring charges of dangerous or careless driving.

It appears to me these cases fall within three distinct categories.

1. Where overtaking is obviously dangerous owing to a corner or the crown of a hill. In such cases I think there should be a conviction for careless or dangerous driving.

2. Where an accident may result through no fault in driving but through other persons relying on a one way road, *e.g.*, certain roundabouts where the view is obscured and the roadway narrow.

3. Where in the circumstances no accident could conceivably result owing to the view being clear, as is the case in many roundabouts and the absence of other traffic on the road at the time of the offence.

In a case before my court where the defendant (it so happened unwittingly) disobeyed an unauthorized sign at a roundabout thus causing a slight accident, it was argued by his solicitor that since all the Queen's subjects have the right to stand or move in any direction on any part of the highway unless there is a lawful order to the contrary, disobeying an unauthorized sign cannot in itself form a basis for a charge of careless driving even though such disobedience is wilful, and that such unauthorized signs have no more authority than exhortations to buy Guinness or to use a special brand of haircream.

My personal view is there is no difficulty in convicting on a charge of careless or dangerous driving in class 1 but such charges cannot be substantiated in any cases falling within class 3 and such should be dismissed.

I am not happy, however, in accepting the solicitor's arguments in cases falling within class 2, for if all such unauthorized signs can be disregarded by some people without any penalty, while other people are relying on them to give them a clear road, it must result in a multiplicity of accidents.

Again my bench is not satisfied that the more serious charge of careless driving with its almost inevitable endorsement of the driving licence is a satisfactory substitute for the charge of disobeying a road sign.

I shall therefore be most obliged if you can inform me:

(1) If you agree with my views on cases falling within classes 1 and 3?

(2) What are your views on cases within class 2?

(3) If you consider the charge of careless driving in the absence of definitely bad driving is a suitable charge in any event?

(4) How far an excuse of ignorance that such signs exist excuses the driver (in one case the driver ignorant of the road had followed an A.A. route which did not indicate a roundabout)?

(5) If persons previously fined for disobeying unauthorized signs can demand the return of their fines, and if so by what method?

(6) Generally on the case. J. SILEX.

Answer.

We think that a traffic sign *of an authorized character* imposes, *prima facie*, an obligation on any road user to obey it, and is a justification for his expecting other road users to do so. A failure to secure the necessary authority for its erection is not known, presumably, to the vast majority of road users.

We think, therefore, that failure to obey such a sign can be some evidence of careless or dangerous driving, but there must always be some evidence other than the mere failure to obey the sign to justify conviction under s. 11 or s. 12 of the 1930 Act.

(1) Yes, but in case (1) we would say "there may well be a conviction" rather than "there should be a conviction" because the possibility of a satisfactory explanation by the defendant must not be excluded.

(2) Each case must depend on the evidence as a whole, and it is not possible to generalize.

(3) The appropriate charge, under s. 11 or s. 12, must depend on all the facts of the case.

(4) This sounds more like possible mitigation than a defence.

(5) If time for appeal has elapsed sessions can be asked to extend the time by virtue of s. 84 (3) of the Magistrates' Courts Act, 1952, if the conviction is not too remote. Alternatively application, supported by the court, can be made to the Home Secretary to consider advising the grant of a free pardon.

(6) See preliminary observations.

9.—Theatres Act, 1843—*Stage play licence not required for "variety show".*

The village hall committee of X, who wish to let the hall for a variety show to be given by two artistes involving a dancing exhibition, cartooning, ventriloquism, marionettes and conjuring, maintain that they do not need a stage play licence for this entertainment. In view of the comments made by Willis, J., in *Wigan* v. *Strange* (1865, 29 J.P. 774) on s. 23 of the Theatres Act, 1843, namely that the words "other entertainment of the stage" must be construed as extending only to entertainment of a dramatic character, I am wondering whether the village hall committee may not be right in their contention. FLIX.

Answer.

We think that the village hall committee may be upheld in their contention that the entertainment described is not a "stage play" within the meaning of s. 23 of the Theatres Act, 1843. This is not only supported by the comments of Willis, J., in *Wigan* v. *Strange* (1865) 29 J.P. 774, but also, we think, satisfies the test applied by Lord Kenyon, C.J., in the old case of *R.* v. *Handy* (1795) 6 T.R. 286 (referred to in *Paterson's Licensing Acts*, 62nd edn., at p. 242)—"By (what is now) s. 12 of the Theatres Act, 1843, a copy of the piece to be represented is required to be sent to the Lord Chamberlain for his approbation previous to the acting; but no copy could have been given of this entertainment."

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. *(Contd.)*

BOROUGH OF WESTON-SUPER-MARE

Appointment of Assistant Solicitor

APPLICATIONS are invited for this appointment on Grade A.P.T. VII of the National Scales, commencing at a salary according to experience.

The appointment will be subject to the National Scheme of Conditions of Service, the Local Government Superannuation Acts, and will be terminable by one calendar month's notice on either side.

Applicants must have experience in conveyancing and advocacy, and will be required to assist in the general work of the Town Clerk's Department. Previous Local Government experience will be an advantage but is not essential.

Housing accommodation will be made available if required.

Applications, stating age, qualifications and experience, with the names and addresses of three referees, should reach the undersigned not later than October 12, 1954.

R. G. LICKFOLD,
Town Clerk.

Town Hall,
Weston-super-Mare.
September 21, 1954.

BOROUGH OF DUKINFIELD

Appointment of Part-time Town Clerk

THE COUNCIL invite applications from Solicitors conversant with local government legislation and practice for the appointment of Part-time Town Clerk.

The salary will be at the rate of £500 per annum rising by four annual increments of £25 to £600 per annum. Payment of reasonable travelling expenses will be considered.

The appointment is subject to the Conditions of Service laid down by the Joint Negotiating Committee for Town Clerks and District Council Clerks, subject to the variation of Conditions 2 and 15, three months' notice on either side, to the Local Government Superannuation Acts and to medical examination.

Applications, endorsed "Town Clerk," giving particulars of age, qualifications and experience together with the names and addresses of two referees, must be delivered to the Mayor, Town Hall, Dukinfield, not later than October 27, 1954.

CITY OF PLYMOUTH

APPLICATIONS are invited for the post of JUNIOR ASSISTANT SOLICITOR at a salary in accordance with the existing recommendations of the National Joint Council. Under these recommendations an Assistant Solicitor after two years' experience since admission is placed on Grade VII (£735—£810); one with less than two years' experience is placed at an appropriate point within Grades Va and VI (£650—£760).

Previous experience in a local government office is not essential.

Applications, giving the names of two persons to whom reference can be made, should be sent to the undersigned by not later than Tuesday, October 19, 1954.

S. LLOYD JONES,
Town Clerk.

Town Clerk's Office,
Pounds House,
Plymouth.

COUNTY COUNCIL OF MIDDLESEX

Appointment of Clerk of the County Council

APPLICATIONS are invited from Solicitors with extensive local government and legal experience for the office of Clerk of the County Council.

The salary proposed for the appointment will be on the scale of £4,500 by £100 to £5,000 per annum, with an expense allowance of £250 per annum. All fees and costs payable to the Clerk (other than emoluments as Acting Returning Officer) shall be accounted for and paid into the County Fund.

The successful applicant will be required to pass a medical examination.

Particulars are obtainable from the undersigned and applications, giving details of age, qualifications, experience and other relevant information, together with twelve spare copies and three testimonials, must be received by the undersigned, marked "Reference 'C'—confidential," not later than October 29, 1954. Canvassing, directly or indirectly, will be a disqualification.

CLIFFORD RADCLIFFE,
Clerk of the County Council.

Middlesex Guildhall,
Westminster, S.W.1

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SALOP COUNTY COUNCIL

Children's Committee

APPLICATIONS are invited for the resident post of HOUSE FATHER at "The Mount" Children's Home, Haygate Road, Wellington.

This establishment provides a Home for 36 boys aged 5-16 years and the duties of the person appointed will be to assist the Superintendent in providing for the welfare of these children and the upkeep of the establishment. He will be expected to take an active interest in their leisure time activities and some experience in organizing activities and hobbies would be an advantage.

Salary :—£395 × £15—£455 per annum, less £108 per annum for board, lodging and laundry. Superannuable post.

Application forms and any further particulars may be obtained from the undersigned to whom completed forms should be returned within seven days of the appearance of this advertisement.

JOAN CLARKE,
Children's Officer.

18/20, Castle Street,
Shrewsbury.

COUNTY OF SOMERSET

Appointment of Chief Constable

THE Somerset Standing Joint Committee invite applications for the appointment of Chief Constable. The salary will be at the rate of £1,720 per annum, rising by annual increments of £60, to £1,900 per annum. A travelling and subsistence allowance will be paid and the appointment will be subject to the Police Regulations for the time being in force.

The person appointed will be required to devote the whole of his time to his duties, and to reside within a reasonable distance of the County Police Headquarters at Taunton.

Applications, quoting the names of not more than three referees, must be received by the undersigned in envelopes endorsed "Chief Constable," not later than November 1, 1954.

Canvassing, either directly or indirectly, will be a disqualification, and candidates must disclose in writing whether to their knowledge they are related to any member of the Standing Joint Committee or to the holder of any senior office under the Committee.

E. S. RICKARDS,
Clerk of the Standing Joint Committee.

County Hall,
Taunton.

COUNTY BOROUGH OF EAST HAM

Law Clerk

APPLICANTS should have experience of conveyancing practice.

Salary—£520 × £15—£565 plus London Weighting (Maximum £30) (Grade A.P.T. II).

Further particulars and form of application, returnable by October 25, 1954, from the Town Clerk, Town Hall, East Ham, E.6.

BOROUGH OF EALING

LEGAL CLERK required. Salary at present £650 rising to £700 per annum. (Maximum may be increased to £755.) National Scheme of Conditions of Service. Superannuation. Canvassing disqualifies. Application forms and further particulars from E. J. Cope-Brown, Town Clerk, Town Hall, Ealing, W.5. Completed applications to be returned by October 25, 1954.

BRIERLEY HILL URBAN DISTRICT COUNCIL

Appointment of Legal Assistant

APPLICATIONS are invited for the above appointment in the office of the Clerk of the Council.

Candidates must have had experience in conveyancing and general legal work. Experience in Committee work will be an advantage.

The salary will be Grade IV of the A.P.T. Division of the National Scales of Salaries—£580 p.a. rising to £625 p.a.

The Council will provide housing accommodation if required.

Applications, stating age, qualifications and the nature of the work previously undertaken, and accompanied by copies of two recent testimonials, should reach the undersigned not later than Monday, October 18, 1954.

HERBERT HEX,
Clerk of the Council.

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